



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
Forensic Science Division



COL. TADARIAL J. STURDIVANT
DIRECTOR

Supreme Court Clerk
P.O. Box
30052 Lansing, Michigan 48909

Re: ADM File No. 2003-04

To Whom It May Concern:

The Michigan State Police supports the proposed new court rule 6.006, "Video Proceedings." Although, in 1994 State Police Forensic Scientists were allowed to provide their testimony at preliminary examinations via telephone or video conferencing, this law is seldom used because the prosecutor is required to file a motion requesting this ability more than five days before the hearing is scheduled. Even with this ability currently in statute, Forensic Science Division scientists receive, on average, more than one subpoena for every work day of the year. Not only is it physically impossible to attend every hearing for which a subpoena is received, time away from the forensic science laboratory equates time that evidentiary analysis is not completed. This time away from the laboratory further exacerbates the case backlog for the Forensic Science Division.

In Michigan, suspects are provided a statutory right to a preliminary examination in a criminal case to determine whether evidence is sufficient to establish that a felony has been committed and whether there is sufficient evidence to establish probable cause that a particular individual committed that crime. Currently, all witnesses must appear at the preliminary examination. However, the majority of preliminary examinations do not take place as scheduled. It has been suggested that a large number are either waved or rescheduled for a variety of reasons, such as needing to wait for lab reports and attorney conflicts. Many witnesses spend a considerable amount of time traveling to, and waiting at, courthouses only to have to come back another day after the proceeding is cancelled. Reportedly, it is not uncommon for a preliminary examination to be rescheduled multiple times over a period of several months. However, each time the examination is scheduled, the witnesses must appear at the courthouse and be prepared to offer their testimony.

The time and money spent on court appearance by the forensic scientists continues to grow. The Forensic Science Division had 949 court appearances in 2003. Court appearances have the greatest impact in the Toxicology Unit. In 2003, the scientists in Toxicology made approximately 225 court appearances to various counties around the State. Approximately 30% of these cases were pursuant to subpoenas for preliminary examinations, evidentiary hearings, etc. That is about 68 court appearances. This number only accounts for the incidents when the scientist actually testified and does not account for the numerous times they appear to find they plea or waive the preliminary hearing. These 68 court appearances equate to more than one year's worth of a scientist's case work (about 1700 cases).

With the implementation of this new rule, some 68 road trips to court could potentially be eliminated and more casework can be completed.

Sincerely,

KARI L. KUSMIERZ, INSPECTOR
Assistant Division Commander
Forensic Science Division